

# House Daily Reader

**Wednesday, February 25, 2004**

[illegible]

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

400J0353

SENATE COMMERCE COMMITTEE ENGROSSED NO.

**HB 1052 - 02/20/2004**

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: The Committee on Commerce at the request of the Department of Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to revise the premium tax on certain small life insurance  
2 policies.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-44-2 be amended to read as follows:

5 10-44-2. Any company doing insurance business in this state shall pay a tax at the rates  
6 specified in this section. The tax shall be paid to the Division of Insurance at the time the  
7 company files its annual statement, or, if no annual statement is required, then before March  
8 first of each year.

9 If, during the previous year, a company paid more than five thousand dollars in premium  
10 taxes in this state, the company shall submit payments equal to one-quarter of the previous year's  
11 premium taxes to the Division of Insurance on April thirtieth, July thirty-first, October  
12 thirty-first, and January thirty-first. The quarterly payments shall be credited against the amount  
13 due from the company at the time the company files its annual statement, or if no annual  
14 statement is required, then on March first of each year. The director of the Division of Insurance



1 may waive the requirement in writing for quarterly payments or reduce the amount of deposit  
2 if the director finds the requirement would impose an undue premium tax on a company because  
3 of a significant decline in sales within the state. If the sum of the quarterly payments exceeds  
4 the total taxes due, the director shall credit the overpayment against subsequent amounts due  
5 or, if requested in writing at the time the company files its annual statement, refund the  
6 overpayment to the company. If the overpayment cannot be credited, there is excess remaining  
7 after the credit is taken on the annual statement, or the refund is not requested, the division may  
8 refund the amount overpaid by May first of the following year. The rates are:

- 9 (1) On each domestic company, two and one-half percent of premiums, except for life  
10 insurance policies, other than credit life as defined in chapter 58-19, of a face amount  
11 of seven thousand dollars or less, for which the rate is one and one-fourth percent of  
12 premiums; and one and one-fourth percent of the consideration for annuity contracts.

13 However, the rate for life insurance and annuities shall be computed as follows:

- 14 (a) Two and one-half percent of premiums for a life policy on the first one  
15 hundred thousand dollars of annual premium, and eight one-hundredths of a  
16 percent for that portion of the annual life premiums exceeding one hundred  
17 thousand dollars; and

- 18 (b) One and one-fourth percent of the consideration for annuity contracts on the  
19 first five hundred thousand dollars of consideration for annuity contracts, and  
20 eight one-hundredths of a percent for that portion of the consideration on  
21 annuity contracts exceeding five hundred thousand dollars.

22 The tax also applies to premiums for insurance written on individuals residing  
23 outside this state or property located outside this state if no comparable tax is paid  
24 by the direct writing company to any other appropriate taxing authority. However, the

1 tax applies only to premiums for insurance written after July 1, 1980, on individuals  
2 residing outside of the United States;

3 (2) On each foreign company the rate shall be computed as follows:

4 (a) Two and one-half percent of premiums, except for life insurance policies,  
5 other than credit life as defined in chapter 58-19, of a face amount of seven  
6 thousand dollars or less, for which the rate is one and one-fourth percent of  
7 premiums. However, for that portion of the life insurance premiums exceeding  
8 one hundred thousand dollars annually, the rate shall be eight one-hundredths  
9 of a percent; and

10 (b) One and one-fourth percent of the consideration for annuity contracts on the  
11 first five hundred thousand dollars of consideration for annuity contracts, and  
12 eight one-hundredths of a percent for that portion of the consideration on  
13 annuity contracts exceeding five hundred thousand dollars;

14 (3) On each insurer not licensed or not authorized to do business in this state, the rate  
15 shall be computed as follows:

16 (a) Two and one-half percent of premiums, except for life insurance policies,  
17 other than credit life as defined in chapter 58-19, of a face amount of seven  
18 thousand dollars or less, for which the rate is one and one-fourth percent of  
19 premiums. However, for that portion of the life insurance premiums exceeding  
20 one hundred thousand dollars annually, the rate shall be eight one-hundredths  
21 of a percent; and

22 (b) One and one-fourth percent of the consideration for annuity contracts on the  
23 first five hundred thousand dollars of consideration for annuity, and eight one-  
24 hundredths of a percent for that portion of the consideration on annuity

1                   contracts exceeding five hundred thousand dollars;

2           (4)   Fourteen dollars for each insurance policy issued or renewed for workers'  
3                   compensation coverage.

4           Revenue from subdivision (4) of this section shall be deposited in the insurance operating  
5   fund of the state treasury and is dedicated to the Department of Labor for purposes of  
6   automating the administration of the workers' compensation law and supporting the Workers'  
7   Compensation Advisory Council.

# State of South Dakota

## SEVENTY-NINTH SESSION LEGISLATIVE ASSEMBLY, 2004

804J0146

### SENATE ENGROSSED NO. **HB 1091** - 02/23/2004

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Wick, Adelstein, Buckingham, Burg, Cutler, Fryslie, Garnos, Novstrup, Peterson (Bill), Peterson (Jim), Schafer, Valandra, Van Gerpen, and Weems and Senators Schoenbeck, Albers, Apa, Brown, Dennert, and Moore

1 FOR AN ACT ENTITLED, An Act to extend the fifty percent tuition privilege for National  
2 Guard members to include graduate study.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 33-6 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 Any member of the National Guard of the State of South Dakota is, upon compliance with  
7 all the requirements for admission and subject to the provisions of § 33-6-7, entitled to a benefit  
8 as prescribed by this Act. Any member of the National Guard of the State of South Dakota who  
9 is enrolled in a program leading toward a graduate degree in any state educational institution  
10 under the control and management of the Board of Regents, including institutions or courses not  
11 subsidized by the general fund, is entitled to a benefit of fifty percent of the in-state resident  
12 undergraduate tuition to be paid to the institution by the Department of Military and Veterans  
13 Affairs. The benefit provided by this Act may not exceed thirty-two credit hours toward a  
14 graduate degree.



1       Section 2. That chapter 33-6 be amended by adding thereto a NEW SECTION to read as  
2 follows:

3       Notwithstanding the provisions of § 13-55-23, eligible national guard members enrolled in  
4 graduate courses under the control and management of the Board of Regents not subsidized by  
5 the general fund are entitled to a benefit of fifty percent of the in-state resident tuition to be paid  
6 to the institution by the Department of Military and Veterans Affairs.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

535J0093

SENATE JUDICIARY COMMITTEE ENGROSSED NO.

**HB 1158** - 02/18/2004

Introduced by: Representatives Cutler, Cradduck, Garnos, Gillespie, Hennies, Michels, Murschel, Rounds, Schafer, and Van Gerpen and Senators Sutton (Dan), Abdallah, Albers, Duniphan, Earley, Ham-Burr, Moore, and Vitter

1 FOR AN ACT ENTITLED, An Act to prohibit the taking of certain pictures of another without  
2 that person's consent and to provide a penalty therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. No person may use a concealed camcorder, motion picture camera, or  
5 photographic camera of any type, to secretly videotape, film, photograph, or record by electronic  
6 means, any other person without clothing, or any other person under or through the clothing  
7 being worn by that other person, for the purpose of viewing the body of, or the undergarments  
8 worn by, that other person, without the consent or knowledge of that other person, with the  
9 intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and  
10 invade the privacy of that other person, under circumstances in which the other person has a  
11 reasonable expectation of privacy. A violation of this section is a Class 1 misdemeanor.





# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

168J0486

SENATE TAXATION COMMITTEE ENGROSSED NO.

**HB 1182 - 02/20/2004**

**This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Schafer, Hennies, Kraus, McLaughlin, Nesselhuf, Rave, Rounds, Sebert, Solum, and Teupel and Senators Vitter, Albers, Duniphan, Kelly, Kooistra, Nachtigal, Olson (Ed), Reedy, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the use of general  
2 occupation tax revenue.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 9-55-10 be amended to read as follows:

5 9-55-10. If a hearing is held under subdivision 9-55-7(2), the governing body shall:

6 (1) Hear all protests and receive evidence for or against the proposed action;

7 (2) Rule upon all written protests received prior to the close of the hearing, which ruling  
8 shall be final; and

9 (3) Continue the hearing from time to time as the governing body may deem necessary.

10 If a special assessment is to be used, the proceedings shall terminate if written protest is  
11 made prior to the close of the hearing by the owners of a majority of the assessable front footage  
12 in the proposed district. If an occupation tax is to be used, the proceedings shall terminate if  
13 protest is made by the users of a majority of the space in the proposed district. If the general  
14 occupational tax is based upon rented hotel and motel rooms pursuant to § 9-55-13, the



1 proceedings shall terminate if written protest is made prior to the close of the hearing by the  
2 owners of a majority of the hotels and motels in the proposed district.

3 Any bonds for the construction of a convention facility that are payable from the proceeds  
4 of the hotel and motel room general occupational tax may only be issued and sold if at least two-  
5 thirds of the hotel and motel owners in the proposed district approve in writing of the issuance  
6 and sale of the bonds.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

761J0587

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1202** - 02/13/2004

Introduced by: Representatives Peterson (Bill) and Olson (Mel) and Senators Brown, Bogue, Ham-Burr, and Moore

1 FOR AN ACT ENTITLED, An Act to create a task force to study state and local government.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. There is hereby created a task force to study the roles of state and local  
4 government in the state. The task force shall review the responsibilities assigned by the  
5 Constitution and state law to state, county, and municipal governments and to school districts.  
6 The task force shall review the functions that have been implemented by these entities of  
7 government to fulfill their assigned responsibilities. The task force shall review the funding  
8 sources that are available to each of these entities to perform their assigned responsibilities. The  
9 task force shall identify any unfunded mandates that have been place on any of these entities and  
10 shall explore options to provide for the funding of the mandates or for the elimination of the  
11 mandates. The task force shall explore areas where intergovernmental cooperation may be  
12 fostered in the future. The task force shall explore areas where governmental responsibilities  
13 may be revised to improve the services provided by state and local governments to the citizens  
14 of the state.

15 Section 2. The state and local government task force shall consist of twenty-two members.



1 The Governor shall appoint the following members:

2 (1) Three representing county government, no more than two of whom may be from one  
3 political party;

4 (2) Three representing municipal government, no more than two of whom may be from  
5 one political party;

6 (3) Three representing school districts, no more than two of whom may be from one  
7 political party;

8 (4) Three faculty members of a university or college political science department, no  
9 more than two of whom may be from one political party; and

10 (5) Six members of the general public, no more than four of whom may be from one  
11 political party.

12 In addition, the president pro tempore of the Senate shall appoint two members of the  
13 Senate, one from each party; and the speaker of the House of Representatives shall appoint two  
14 members of the House of Representatives, one from each party. The Governor shall select the  
15 chair of the task force.

16 Section 3. The task force shall meet in 2004 and 2005. The task force may hold meetings  
17 and hearings at times and places as it may designate. The task force shall report its findings and  
18 recommendations to the Legislature at its regular session in 2006.

19 Section 4. The Legislative Research Council shall serve as staff to the task force.

20 Section 5. The members of the task force shall be compensated in the same manner as  
21 members of an interim committee.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

337J0082

**SENATE HEALTH AND HUMAN SERVICES**  
**COMMITTEE ENGROSSED NO. HB 1228 -**  
**02/18/2004**

Introduced by: Representatives Haverly, Christensen, Craddock, Cutler, Glenski, Hunhoff, Madsen, Michels, Miles, Murschel, Novstrup, O'Brien, Rave, and Sebert and Senators Olson (Ed) and Knudson

1 FOR AN ACT ENTITLED, An Act to provide for interstate contracts for the treatment of  
2 individuals with mental illness or chemical dependency and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms in this Act mean:

5 (1) "Bordering state," Iowa, Minnesota, Montana, Nebraska, North Dakota, or Wyoming;

6 (2) "Treatment facility," an accredited prevention or treatment facility as defined in § 34-  
7 20A-2 or an inpatient psychiatric facility as defined in § 27A-1-1.

8 Section 2. A bordering state or governmental entity of a bordering state may contract with  
9 any appropriate treatment facility in South Dakota for the treatment of mental illness or  
10 chemical dependency for residents of the bordering state. However, any such contract shall  
11 conform to the requirements of this Act.

12 Section 3. No contract may be entered into under this Act for treatment to any person who:

13 (1) Is serving a sentence after conviction of a criminal offense;

14 (2) Is on probation or parole; or



1       (3)    Is the subject of a presentence investigation.

2       Section 4. Any contract entered into under this Act between a bordering state or  
3 governmental entity of a bordering state and a South Dakota treatment facility shall, at a  
4 minimum:

5       (1)    Describe the services to be provided;

6       (2)    Establish responsibility for the costs of services;

7       (3)    Establish responsibility for the costs of transporting individuals receiving services  
8 under this Act;

9       (4)    Establish responsibility for the transportation of individuals under this Act;

10      (5)    Specify the duration of the contract;

11      (6)    Specify the means of terminating the contract;

12      (7)    Specify the terms and conditions for refusal to admit or retain an individual; and

13      (8)    Identify the goals to be accomplished by the placement of an individual under this  
14 Act.

15      Section 5. Any treatment facility in South Dakota may enter negotiations with appropriate  
16 personnel of a bordering state to develop a contract that conforms to the requirements of this  
17 Act. A contract with a bordering state shall enable the temporary placement in South Dakota by  
18 a bordering state of a person who is on an emergency hold or who has been involuntarily  
19 committed as mentally ill or chemically dependent as determined by the bordering state. Any  
20 person committed by a bordering state or on emergency hold from a bordering state and who  
21 is placed in a South Dakota facility continues to be in the legal custody of the bordering state  
22 and shall be returned to the bordering state prior to release from emergency hold or involuntary  
23 commitment. The bordering state's laws governing commitment criteria, length of commitment,  
24 hearings, reexaminations, and extension of commitment continue to apply to these bordering

1 state residents. The State of South Dakota is not responsible for treatment costs, legal  
2 proceeding costs, or transportation costs. In all other aspects, a resident of a bordering state  
3 placed in a South Dakota facility is subject to the laws of South Dakota. A contract under this  
4 Act with a bordering state or bordering state governmental entity shall specify that responsibility  
5 for payment for the cost of care and transportation for persons under this Act remains with the  
6 contracting entity of the bordering state of which that person is a resident.

7 Section 6. No person placed in South Dakota from a bordering state under this Act may be  
8 placed or transferred to the South Dakota Human Services Center.

9 Section 7. Whereas, this Act is necessary for the immediate preservation of the public peace,  
10 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and  
11 effect from and after its passage and approval.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

367J0446

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1297** - 02/20/2004

Introduced by: Representatives Rhoden, Bartling, Begalka, Cradduck, Deadrick (Thomas), Elliott, Fryslie, Gillespie, Hanson, Hargens, Hennies, Hunhoff, Juhnke, LaRue, Lintz, McCaulley, McCoy, Novstrup, Olson (Ryan), Rounds, Sigdestad, and Teupel and Senators Koskan, Duenwald, Kleven, and Napoli

1 FOR AN ACT ENTITLED, An Act to restrict the alienation of public state real property to the  
2 federal government.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Neither the State of South Dakota nor any of its state agencies may transfer title  
5 to any real property in this state to the federal government or any federal agency unless the  
6 Legislature has granted its explicit authorization by prior legislation.

7 Section 2. The provisions of section 1 of this Act do not apply:

8 (1) If the transfer is the result of an eminent domain proceeding; or

9 (2) If the transfer is a sale negotiated under threat of an eminent domain proceeding or  
10 under circumstances in which acquisition of the property by an eminent domain  
11 proceeding would be justified; or

12 (3) If the transfer involves less than forty acres of unimproved land or less than five  
13 hundred thousand dollars worth of improved real estate; or

14 (4) If the transfer involves the trade of tracts of land of substantially equal value between





1 the state government or any of its entities and the federal government or any of its  
2 entities.

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

400J0709

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 206** - 02/23/2004

Introduced by: The Committee on Education at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to increase the per student allocation in the state aid to  
2 education formula.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-13-10.1 be amended to read as follows:

5 13-13-10.1. Terms used in this chapter mean:

6 (1) "Average daily membership," the average number of resident and nonresident  
7 kindergarten through twelfth grade pupils enrolled in all schools operated by the  
8 school district during the previous regular school year, minus average number of  
9 pupils for whom the district receives tuition, except pupils described in subdivision  
10 (1A) and pupils for whom tuition is being paid pursuant to § 13-28-42 and plus the  
11 average number of pupils for whom the district pays tuition;

12 (1A) Nonresident students who are in the care and custody of the Department of Social  
13 Services, the Unified Judicial System, the Department of Corrections, or other state  
14 agencies and are attending a public school may be included in the average daily  
15 membership of the receiving district when enrolled in the receiving district. When



counting a student who meets these criteria in its general enrollment average daily membership, the receiving district may begin the enrollment on the first day of attendance. The district of residence prior to the custodial transfer may not include students who meet these criteria in its general enrollment average daily membership after the student ceases to attend school in the resident district;

(2) "Adjusted average daily membership," calculated as follows:

(a) For districts with an average daily membership of two hundred or less, multiply 1.2 times the average daily membership;

(b) For districts with an average daily membership of less than six hundred, but greater than two hundred, raise the average daily membership to the 0.8293 power and multiply the result times 2.98;

(c) For districts with an average daily membership of six hundred or more, multiply 1.0 times their average daily membership;

(3) "Index factor," is the annual percentage change in the consumer price index for urban wage earners and clerical workers as computed by the Bureau of Labor Statistics of the United States Department of Labor for the year before the year immediately preceding the year of adjustment or three percent, whichever is less;

(4) "Per student allocation," for school fiscal year ~~2004~~ 2005 is ~~\$3,967.88~~ \$4,096.48. Each school fiscal year thereafter, the per student allocation is the previous fiscal year's per student allocation increased by the index factor;

(5) "Local need," the per student allocation multiplied by the adjusted average daily membership;

(6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by applying the levies established pursuant to § 10-12-42;

- 1       (7)    "General fund balance," the unreserved fund balance of the general fund, less general  
2           fund exclusions plus, beginning with transfers made in fiscal year 2001, any transfers  
3           out of the general fund for the previous school fiscal year;
- 4       (8)    "General fund balance percentage," is a school district's general fund balance divided  
5           by the school district's total general fund expenditures for the previous school fiscal  
6           year, the quotient expressed as a percent;
- 7       (9)    "General fund base percentage," is the general fund balance percentage as of June 30,  
8           2000. However, the general fund base percentage can never increase and can never  
9           be less than twenty percent;
- 10      (10)   "Allowable general fund balance," the fund base percentage multiplied by the  
11           district's general fund expenditures in the previous school fiscal year;
- 12      (11)   "Imputed interest rate," the average prime rate for the preceding fiscal year minus 2.5  
13           percentage points;
- 14      (12)   "General fund exclusions," revenue a school district has received from the imposition  
15           of the excess tax levy pursuant to § 10-12-43; revenue a school district has received  
16           from gifts, contributions, grants, or donations; revenue a school district has received  
17           under the provisions of §§ 13-6-92 to 13-6-96, inclusive; and any revenue in the  
18           general fund set aside for a noninsurable judgment.